

2013
CUMULATIVE SUPPLEMENT
TO
MISSISSIPPI CODE
1972 ANNOTATED

Issued September, 2013

**CONTAINING PERMANENT PUBLIC STATUTES OF MISSISSIPPI
ENACTED THROUGH THE 2013 REGULAR SESSION
AND 1ST AND 2ND EXTRAORDINARY SESSIONS**

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User's Guide

In order to assist both the legal profession and the layman in obtaining the maximum benefit from the Mississippi Code of 1972 Annotated, a User's Guide has been included in the main volume. This guide contains comments and information on the many features found within the Code intended to increase the usefulness of the Code to the user.



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PUBLISHER'S FOREWORD

Statutes

The 2013 Supplement to the Mississippi Code of 1972 Annotated reflects the statute law of Mississippi as amended by the Mississippi Legislature through the end of the 2013 Regular Session and 1st and 2nd Extraordinary Sessions.

Annotations

Case annotations are included based on decisions of the State and federal courts in cases arising in Mississippi. Annotations to collateral research references are also included.

To better serve our customers by making our annotations more current, LexisNexis has changed the sources that are read to create annotations for this publication. Rather than waiting for cases to appear in printed reporters, we now read court decisions as they are released by the courts. A consequence of this more current reading of cases, as they are posted online on LexisNexis, is that the most recent cases annotated may not yet have print reporter citations. These will be provided, as they become available, through later publications.

This publication contains annotations taken from decisions of the Mississippi Supreme Court and the Court of Appeals and decisions of the appropriate federal courts. These cases will be printed in the following reporters:

- Southern Reporter, 3rd Series
- United States Supreme Court Reports
- Supreme Court Reporter
- United States Supreme Court Reports, Lawyers' Edition, 2nd Series
- Federal Reporter, 3rd Series
- Federal Supplement, 2nd Series
- Federal Rules Decisions
- Bankruptcy Reporter

Additionally, annotations have been taken from the following sources:

- American Law Reports, 6th Series
- American Law Reports, Federal 2nd
- Mississippi College Law Review
- Mississippi Law Journal

Finally, published opinions of the Attorney General and opinions of the Ethics Commission have been examined for annotations.

Amendment Notes

Amendment notes detail how the new legislation affects existing sections.

Editor's Notes

Editor's notes summarize subject matter and legislative history of repealed sections, provide information as to portions of legislative acts that have not been codified, or explain other pertinent information.

PUBLISHER'S FOREWORD

Joint Legislative Committee Notes

Joint Legislative Committee notes explain codification decisions and corrections of Code errors made by the Mississippi Joint Legislative Committee on Compilation, Revision, and Publication of Legislation.

Tables

The Statutory Tables volume adds tables showing disposition of legislative acts through the 2013 Regular Session and 1st and 2nd Extraordinary Sessions.

Index

The comprehensive Index to the Mississippi Code of 1972 Annotated is replaced annually, and we welcome customer suggestions. The foreword to the Index explains our indexing principles, suggests guidelines for successful index research, and provides methods for contacting indexers.

Acknowledgements

The publisher wishes to acknowledge the cooperation and assistance rendered by the Mississippi Joint Legislative Committee on Compilation, Revision, and Publication of Legislation, as well as the offices of the Attorney General and Secretary of State, in the preparation of this supplement.

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September 2013

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SCHEDULE OF NEW SECTIONS

Added in this Supplement

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49-2-103. Program to encourage certification of electronic recyclers; directory of certified electronic recyclers; compliance; applicability.

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MISSISSIPPI CODE 1972

ANNOTATED

VOLUME TWELVE

TITLE 49

CONSERVATION AND ECOLOGY

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CHAPTER 2

Department of Environmental Quality

Certified Electronic Recyclers	49-2-101
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CERTIFIED ELECTRONIC RECYCLERS

SEC.	
49-2-101.	Definitions.
49-2-103.	Program to encourage certification of electronic recyclers; directory of certified electronic recyclers; compliance; applicability.

§ 49-2-101. Definitions.

As used in Sections 49-2-101 and 49-2-103:

(a) "Electronics" means a personal computer, computer component, audio player, videocassette player, facsimile machine, copy machine, cellular telephone, wireless paging device, or any electronic item containing an intact or broken cathode-ray tube. An electronic item containing a cathode-ray tube includes a television, computer monitor, or any other cathode-ray tube monitor or display device.

(b) "Recycler" means a person who uses, reuses or reclaims obsolete electronic equipment and associated materials.

SOURCES: Laws, 2013, ch. 351, § 1, eff from and after July 1, 2013.

§ 49-2-103. Program to encourage certification of electronic recyclers; directory of certified electronic recyclers; compliance; applicability.

(1) The Department of Environmental Quality shall develop a program to encourage all electronic recyclers to become certified by demonstrating to an accredited, independent third-party auditor that they meet specific standards to safely recycle and manage electronic equipment.

(2) The department shall maintain a directory of recyclers meeting the accredited certification standards of Responsible Recycling Practices (R2) and the e-Stewards Standards and any recyclers who have been certified by an accredited, independent certification auditor listed by the ANSI-ASQ National Accreditation Board (ANAB) as an organization that certifies recyclers to available recycling standards.

(3) State agencies shall use a certified recycler on the directory for the disposal of agency electronics.

(4) The Department of Environmental Quality and state agencies shall comply with this section no later than July 1, 2014.

(5) This section does not apply to the donation of electronics to public schools, state agencies, local governments or nonprofit organizations.

SOURCES: Laws, 2013, ch. 351, § 2, eff from and after July 1, 2013.

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IN GENERAL

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§ 49-7-5. Fees for resident hunting, fishing, and combination hunting and fishing licenses; exemptions.

(1)(a) Any resident, as defined in Section 49-7-3, upon application, shall receive a combination resident hunting and fishing license for the sum of Seventeen Dollars (\$17.00). The license shall qualify the licensee to hunt under this chapter all game and fowl, including deer and turkey, and to fish in any county of the state.

(b) Any resident, as defined in Section 49-7-3, upon application, shall receive a resident combination small game hunting and fishing license for the sum of Eight Dollars (\$8.00) together with the fee provided in Section 49-7-17 to the office or agent issuing the license. The hunting license shall qualify the licensee to hunt and fish under this chapter all game and fowl, except deer and turkey, in any county in the state.

(c) Any resident, as defined in Section 49-7-3, upon application, shall receive a sportsman's license for the sum of Thirty-two Dollars (\$32.00). The license shall qualify the licensee to hunt under this chapter all game and fowl, including deer and turkey, and to fish as provided by law, in any county in the state, and to hunt using primitive weapons and bow and arrow in the manner provided by law. The commission may notify the licensee of the expiration of his license, and the licensee may renew the license by mailing the sum of Thirty-two Dollars (\$32.00) to the commission. A licensee who has not renewed the license within thirty (30) days after the expiration date shall be removed from the commission's records, and the licensee must apply to be placed on the renewal list.

(d) In addition to a hunting license allowing the taking of turkey, a resident who hunts turkey during a fall turkey season must purchase a fall turkey hunting permit for a fee of Five Dollars (\$5.00) plus the fee provided in Section 49-7-17. A resident sportsman's licensee or resident lifetime sportsman licensee may hunt during the fall turkey season without purchasing a permit.

(e) The commission may offer a resident apprentice hunting license for a resident who does not have the required certificate of hunter education and may set the fee for the apprentice hunting license. An apprentice license may be purchased only one (1) time by a resident and the apprentice hunting licensee must be accompanied by a licensed or exempt resident hunter at least twenty-one (21) years of age when hunting.

(2)(a) Any resident citizen of the State of Mississippi who has not reached the age of sixteen (16) years or who has reached the age of sixty-five (65) years, or any resident citizen who is blind, paraplegic, or a multiple amputee, or who has been adjudged by the Veterans Administration as

having a total service-connected disability, or has been adjudged to be totally disabled by the Social Security Administration shall not be required to purchase or have in his possession, a hunting or fishing license while engaged in such activities. A person exempt by reason of total service-connected disability, as adjudged by the Veterans Administration or who has been adjudged to be totally disabled by the Social Security Administration or who is blind, paraplegic or a multiple amputee, shall have in their possession and on their person proof of their age, residency, disability status or other respective physical impairment while engaged in the activities of hunting or fishing.

(b) Any resident who is a member of the Armed Forces, including the Reserves and National Guard, and on active duty outside the State of Mississippi is not required to purchase or have in his possession a hunting or fishing license while engaged in such activities on leave from active duty. The resident shall have in his possession and on his person any proof as may be required by the commission.

(c) All exempt hunting and fishing licenses previously issued for disabilities shall be null and void effective July 1, 1993.

(d) The commission may offer a youth all-game hunting and fishing license for exempt youths who have a hunter education certificate and an all-game hunting and fishing license for other persons exempted under paragraph (a). Youths and other exempt persons shall not be required to purchase this license or have it in possession while hunting or fishing. The commission may establish a fee not to exceed Five Dollars (\$5.00) for the licenses.

(3) No license shall be required of residents to hunt, fish or trap on lands in which the record title is vested in such person.

(4) Any person or persons exempt under this section from procuring a license shall be subject to and must comply with all other terms and provisions of this chapter.

(5) Any person authorized to issue any license under this section may collect and retain for the issuance of each license the additional fee authorized under Section 49-7-17.

SOURCES: Codes, 1942, §§ 5871, 5876; Laws, 1932, ch. 123; Laws, 1942, ch. 250; Laws, 1944, ch. 237, § 1; Laws, 1954, ch. 172; Laws, 1956, ch. 150; Laws, 1958, ch. 174; Laws, 1962, ch. 189, § 2; Laws, 1966, ch. 263, § 1; Laws, 1971, ch. 372, § 1; Laws, 1973, ch. 358, § 1; Laws, 1978, ch. 343, § 1; Laws, 1978, ch. 465, § 2; Laws, 1988, ch. 435, § 2; Laws, 1993, ch. 463, § 1; Laws, 2002, ch. 547, § 1; Laws, 2004, ch. 342, § 1; Laws, 2006, ch. 486, § 2; Laws, 2007, ch. 477, § 1; Laws, 2013, ch. 501, § 1, eff from and after July 1, 2013.

Amendment Notes — The 2013 amendment substituted “Eight Dollars (\$8.00)” for “Thirteen Dollars (\$13.00)” in (1)(b); deleted former (1)(c), which read: “Any resident of the State of Mississippi, as defined in Section 49-7-3, upon application, shall receive a resident small game license, and for it shall pay the issuing officer or agent the sum of Thirteen Dollars (\$13.00), together with the fee provided in Section 49-7-17 to the officer or agent issuing such license. Such hunting license shall qualify the person holding the same to hunt under the provisions of this chapter, and in season, all game

and fowl, except deer and turkey, in any county in the state” and renumbered the remaining subdivisions accordingly; substituted “any” for “such” in the last sentence in (2)(b); and made minor stylistic changes throughout.

§ 49-7-9. Resident fishing licenses.

(1)(a) Each resident of the State of Mississippi, as defined in Section 49-7-3, fishing in the public fresh waters of the state, including lakes and reservoirs, but not including privately owned ponds and streams, shall purchase a combination small game hunting and fishing license as provided in Section 49-7-5 for Eight Dollars (\$8.00). Any resident purchasing a license as prescribed in this subsection shall be entitled to fish, in accordance with the regulations and ordinances of the commission, in all public fresh waters within the territory of the State of Mississippi.

(b) A resident may purchase a resident fishing license valid for a period of three (3) days for the sum of Three Dollars (\$3.00).

(c) No license shall be required of any resident citizen of the State of Mississippi who has not reached the age of sixteen (16) years or who has reached the age of sixty-five (65) years or who is blind, paraplegic, a multiple amputee or has been adjudged by the Veterans Administration as having a total service-connected disability, or has been adjudged totally disabled by the Social Security Administration. Such person shall not be required to purchase or have in his possession a hunting or fishing license while engaged in such activities.

(d) A person exempt by reason of age, total service-connected disability as adjudged by the Veterans Administration or total disability as adjudged by the Social Security Administration or who is blind, paraplegic or a multiple amputee, shall have in their possession and on their person proof of their age, residency, disability status or other respective physical impairment while engaged in the activities of hunting or fishing.

(e) Any resident who is a member of the Armed Forces, including the Reserves and National Guard, and on active duty outside the State of Mississippi is not required to purchase or have in his possession a hunting or fishing license while engaged in such activities on leave from active duty. Such resident shall have in his possession and on his person such proof as may be required by the commission.

(2)(a) All persons fishing in privately owned lakes or ponds shall have specific permission to do so from the owner of such lake or pond.

(b) Residents do not need a fishing license to fish in those waters, except when the owner of the lake or pond charges a fee for fishing, then a resident must have a fishing license to fish in those waters unless exempted under subsection (1) of this section.

(3) The first weekend of “National Fishing and Boating Week” in June of each year is designated as “Free Fishing Weekend.” July 4 is designated as “Free Fishing Day.” Any person may sport fish without a license on “Free Fishing Weekend,” and on “Free Fishing Day.”

(4) Any person authorized to issue any license under this section may collect and retain for issuing each license the additional fee authorized under Section 49-7-17.

SOURCES: Codes, 1942, § 5906; Laws, 1932, ch. 123; Laws, 1936, ch. 197; Laws, 1938, ch. 178; Laws, 1938, Ex. Sess. ch. 78; Laws, 1942, ch. 250; Laws, 1958, ch. 175; Laws, 1966, ch. 265, § 1; Laws, 1973, ch. 451, § 1; Laws, 1978, ch. 465, § 4; Laws, 1982, ch. 435, § 5; Laws, 1987, ch. 413; Laws, 1988, ch. 435, § 5; Laws, 1988, ch. 600; Laws, 1989, ch. 377, § 2; Laws, 1993, ch. 463, § 2; Laws, 1995, ch. 402, § 1; Laws, 1998, ch. 409, § 1; Laws, 2007, ch. 471, § 1; Laws, 2007, ch. 477, § 2; Laws, 2010, ch. 332, § 1; Laws, 2013, ch. 471, § 1, eff from and after July 1, 2013.

Amendment Notes — The 2013 amendment in (1)(a), substituted “purchase a combination small game hunting and fishing license as provided in Section 49-7-5 for” for “pay an annual license fee of” in the first sentence, deleted “public freshwater fishing” preceding “licensed as prescribed” in the last sentence; deleted former (2) through (8) and redesignated the remaining subsections accordingly; added (2)(b); in (3), added the second sentence, substituted “and on ‘Free Fishing Day’” for “additionally, July 4 is still designated as free fishing day on the Mississippi Gulf Coast”; and made minor stylistic changes throughout.

§ 49-7-9.1. Commercial fishing licenses; who is required to purchase; labeling of commercial fishing equipment; slat basket license; fees.

(1)(a) Any resident engaged in fishing for commercial purposes and selling or peddling nongame gross fish at retail or selling or shipping same at wholesale, as to markets, dealers or canning plants, shall purchase a commercial fishing license.

(b) A licensee must label each piece of commercial fishing equipment with a waterproof or metal tag containing any information required by the department. A piece of commercial fishing equipment is defined as: One (1) each hoop or barrel net; one thousand (1,000) feet or less of trotline; one thousand (1,000) feet or less of snagline; three thousand (3,000) feet or less of gill netting; or three thousand (3,000) feet or less of trammel netting. Netting of over three thousand (3,000) feet is prohibited.

(c) Upon the purchase of a commercial license for use of hoop or barrel nets, the licensee is permitted to use lead nets thirty-five (35) yards in length for each two (2) barrel nets used, but not to exceed seven (7) lead nets.

(2) Each person taking nongame gross fish as defined in Section 49-7-1, of any kind from the fresh waters of the state shall be considered a producer and shall be entitled to sell his own catch of nongame gross fish to anyone except as otherwise provided by law or applicable regulations.

(3) Each resident buying or handling nongame gross fish secured from commercial fishermen or others for the purpose of resale, whether handled on a commission basis or otherwise, and each resident shipping nongame gross fish not his own catch out of the State of Mississippi shall be considered a wholesale dealer and shall purchase a commercial fishing license. Resident

wholesale dealers' licenses shall be issued only to persons who have been bona fide residents of the State of Mississippi for at least six (6) months.

(4) Each resident buying nongame gross fish from a licensed wholesale dealer or licensed commercial fisherman for retail sale to the consumer only on rural or urban routes shall purchase a commercial fishing license to do so.

(5) Each resident engaged in the buying and selling of nongame gross fish as a wholesale dealer's agent, whether on a commission or salary basis, or otherwise, and not selling in the open market, shall purchase a commercial fishing license and shall be responsible for any illegal transaction ensuing between the time he purchases the fish from the fisherman and the time the fish are accepted by the wholesaler by whom he is employed.

(6)(a) Any resident using a wooden or plastic slat basket shall purchase a slat basket license for each basket each year in addition to a commercial fishing license. Slat baskets are defined as commercial fishing devices used solely for the capture of catfish and made entirely of wood and/or plastic slats in a box-like or cylindrical shape. Slat baskets shall not exceed six (6) feet in length nor exceed fifteen (15) inches in width and height or diameter, may have no more than two (2) throats, and must have at least four (4) slot openings at least one and one-fourth (1-¼) by twenty-four (24) inches evenly spaced around the sides of the catch area. The one and one-fourth (1-¼) inch wide slots or greater must begin at the rear of the basket and run twenty-four (24) inches toward the throat end of the basket. Slat baskets shall be placed at least one hundred (100) yards apart and may not be used with any form of leads, netting or guiding devices.

(b) Each slat basket shall have a waterproof or metal tag attached to it containing any information required by the department. Any other identification of the owner of the slat basket shall meet any specifications required by the department. Slat baskets may be fished statewide except where specifically prohibited.

(c) Any violation of this subsection shall be a Class I violation as prescribed in Section 49-7-141.

(7) It is unlawful for any person to offer for sale undersized nongame gross fish.

(8)(a) The fee for a resident commercial fishing license shall be Thirty Dollars (\$30.00).

(b) The fee for a slat basket license shall be Thirty Dollars (\$30.00).

(9) Any person authorized to issue any license under this section may collect and retain for issuing each license the additional fee authorized under Section 49-7-17.

SOURCES: Laws, 2013, ch. 471, § 2, eff from and after July 1, 2013.

§ 49-7-12. Reciprocal agreements with other states; nonresident freshwater commercial fishing licenses; fees; penalties.

(1) The commission may promulgate rules and regulations for nonresident recreational and commercial permits and licenses in order to promote and to enter into reciprocal agreements with other states.

(2) The commission may issue and prescribe the forms, types and fees of nonresident freshwater commercial fishing licenses to be sold by the department and not by licensing agents.

(3)(a) The commission may prescribe regulations for nonresident commercial fishing equipment, tagging requirements, harvest size and possession restrictions, restricted areas, fishing restrictions, reporting requirements, wholesale dealers, and the selling, reselling and exporting of fish taken in the public freshwaters of the state.

(b) The commission may exercise all powers necessary to regulate nonresident freshwater commercial fishing.

(4) The commission may require a nonresident to purchase the same type and number of freshwater commercial fishing licenses and pay the same fees that are required of Mississippi residents to engage in like activity in the nonresident's state.

(5) Any nonresident who engages in freshwater commercial fishing without having the required licenses is guilty of a Class I violation and punishable as provided under Section 49-7-141 and shall forfeit any equipment, gear or nets used in the offense.

SOURCES: Laws, 2007, ch. 471, § 2; Laws, 2013, ch. 471, § 3, eff from and after July 1, 2013.

Amendment Notes — The 2013 amendment added (3)(a) and (b) and renumbered former (3) and (4) as (4) and (5).

§ 49-7-12.1. Nonresident wholesale dealers who buy certain fish and nonresidents who import certain fish are required to obtain commercial fishing licenses.

(1) Nonresident wholesale dealers who buy nongame gross fish in the state for the purpose of resale shall obtain a nonresident commercial fishing license.

(2) Any nonresident who imports nongame gross fish into the state for the purpose of resale to a wholesale or retail dealer or to a consumer shall obtain a nonresident commercial fishing license.

SOURCES: Laws, 2013, ch. 471, § 4, eff from and after July 1, 2013.

§ 49-7-13. Definitions; fee for resident trapper's license; permission of landowners to trap; certain types of traps prohibited; identification of traps; placing or setting traps near public roads or streets; exemptions; selling of skins and meat of certain animals during and after trapping season.

(1) For the purposes of this chapter, the following terms shall have the meaning ascribed herein, unless the context determines otherwise:

(a) "Raw fur" means the skin that has not been removed from the carcass of a fur-bearing animal or nuisance animal.

(b) "Green pelt" means the skin, with hair or fur attached, that has been removed from a fur-bearing animal or nuisance animal, but has not been tanned or fleshed, stretched and dried.

(c) "Dried pelt" means the skin of a fur-bearing animal or nuisance animal that has been fleshed, stretched and dried.

(2) Any resident of the state sixteen (16) years of age or older, upon application, is entitled to receive a state trapper's license with tag for the sum of Twenty-five Dollars (\$25.00), plus the fee provided in Section 49-7-17. This license shall be required of each helper or assistant sixteen (16) years of age or older employed or used by a trapper. No license shall be required of a resident who traps on lands in which the record title is vested in that person.

(3)(a) No person shall trap on the lands of another unless he has the permission of the landowner.

(b) No person shall use, on any public lands, a conibear-type or body-gripping trap with an inside jaw spread exceeding seven (7) inches, unless it is partially submerged in water. The designated legal authority of any public lands and its agents shall be exempt from the requirement of this subsection for the purpose of nuisance control.

(4)(a) Each licensed trapper shall have an identification number issued by the department. The licensed trapper shall have the identification number permanently inscribed on the trap or attached to the trap by a metal tag.

(b) A person exempt from purchasing a trapping license must tag or permanently inscribe any trap with his name, phone number and address.

(c) The conservation officer may take up any traps not properly marked.

(d) Every trapper shall visit his traps at least every thirty-six (36) hours.

(5) Except as otherwise provided in this section, no person shall place or set a trap on or within one hundred (100) feet of any street or public road. Public roads shall not be construed to mean public waterways.

(6)(a) A licensed trapper or resident under sixteen (16) years of age shall be allowed to trap fur-bearing animals during trapping season, and sell or consign the raw fur, green pelts and dried pelts of fur-bearing and nuisance animals during the trapping season and for thirty (30) days after the close of the season. Only a licensed trapper or resident under sixteen (16) years of age may sell or consign the raw fur, green pelts and dried pelts of fur-bearing nuisance animals.

(b) A trapper may not transport the raw fur or green pelts of fur-bearing animals within the state from eleven (11) days after the close of trapping season until the opening day of the following trapping season, unless each raw fur or green pelt is tagged or documented with the name, address and trapping identification number of the person who harvested the raw fur or green pelt and the date and place of harvest. An official possession tag that has been issued by another state shall be considered legally documented.

(c) A licensed trapper may possess and maintain in storage the raw fur, green pelts and dried pelts of fur-bearing and nuisance animals at any time.

(d) The meat of legally acquired raccoons, opossums and muskrats may also be bought and sold during trapping season, and for thirty (30) days after the close of the season.

(7)(a) A municipality or county, or any person who has contracted with a municipality or county for the purpose authorized in this subsection, may place or set only snare traps within one hundred (100) feet of any road or street located within such municipality or county. Before the action authorized by this section is taken, the governing authority of the municipality or the board of supervisors of the county shall make a finding that such placement of snare traps is reasonable and necessary to protect the public safety by removing fur-bearing and nuisance animals that threaten the safety of public roads and bridges. Snares shall be submerged at least fifty percent (50%).

(b) Landowners and their designated agents may place or set snare traps, conibear-type or body-gripping traps, live cage traps and foothold traps on property owned by the landowner within one hundred (100) feet of any road or street, but not within the maintained public road or street right-of-way.

(c) Snare traps, conibear-type or body-gripping traps shall be submerged in water at least fifty percent (50%) and foothold traps shall be completely submerged in water.

SOURCES: Codes, 1942, § 5873; Laws, 1932, ch. 123; Laws, 1978, ch. 465, § 7; Laws, 1988, ch. 435, § 7; Laws, 1993, ch. 463, § 3; Laws, 1999, ch. 401, § 1; Laws, 2005, ch. 489, § 1; Laws, 2006, ch. 522, § 2; Laws, 2010, ch. 491, § 1; Laws, 2013, ch. 514, § 1, eff from and after July 1, 2013.

Amendment Notes — The 2013 amendment added (1) and redesignated former (1) through (4) as (2) through (5); added the last sentence in (2); added (3)(b) and (4)(b); in (4)(a), substituted “Each licensed trapper shall have an identification number issued by the department. The licensed trapper shall have the identification number” for “Each trap shall have an identification number”; rewrote (6) adding designators and (b) and (c); substituted “thirty (30)” for “ten (10)” in (6)(d); added (7)(b) and (c); and made minor stylistic changes.

§ 49-7-20. Requirement of satisfactory completion of hunter education course; resident apprentice hunting license; resident combination small game hunting and fishing license.

(1) It is unlawful for any person born on or after January 1, 1972, to procure any Mississippi hunting license, except a resident apprentice hunting license and a resident combination small game hunting and fishing license, unless the person has been issued certification of satisfactory completion of a hunter education course approved by the department.

(2) It is unlawful for any person to issue any Mississippi hunting license, except a resident apprentice hunting license and resident combination small game hunting and fishing license, to any person born on or after January 1, 1972, unless the purchaser has provided valid certification of satisfactory completion of a hunter education course approved by the department.

(3) It is unlawful for any person to fraudulently obtain a hunter education certification.

(4) The department may revoke any hunting license or hunter education certification upon determination that the holder was not entitled to issuance or obtained the license or certification by any fraudulent means.

(5) It is unlawful for any person born on or after January 1, 1972, to hunt with a resident combination small game hunting and fishing license, unless the person has been issued certification of satisfactory completion of a hunter education course approved by the department.

SOURCES: Laws, 1985, ch. 445, § 1; Laws, 1995, ch. 409, § 5; Laws, 2006, ch. 486, § 3; Laws, 2013, ch. 501, § 2, eff from and after July 1, 2013.

Amendment Notes — The 2013 amendment inserted “and a resident combination small game hunting and fishing license” in (1); inserted “and resident combination small game hunting and fishing license” in (2); and added (5).

§ 49-7-31. Open season on deer.

[Effective until July 1, 2014, this section will read:]

(1) The open season on deer shall be as follows:

(a) With bow and arrow: October 1 through the Friday prior to Thanksgiving.

(b) With guns and with dogs: from the Saturday prior to Thanksgiving through December 1.

(c) With primitive weapons and without dogs: December 2 through December 15.

(d) With guns and without dogs: December 16 through December 23. However, the commission may allow hunting statewide or in specific areas with any legal weapon which it may designate without dogs after the end of the last season for hunting deer with guns and with dogs, but the season with legal designated weapons and without dogs shall not extend beyond January 31.

(e) The commission shall establish an extended season with primitive weapons and bow and arrow without dogs from February 1 through February 15 for the area south of U.S. Highway 84 and east of Mississippi Highway 35 only for legal bucks. Any antlered deer taken in this area during any open season under this section must be a legal buck as defined in this paragraph. For purposes of this paragraph, the term “legal buck” means a deer with antlers of four (4) points or more with a minimum inside spread of ten (10) inches or a minimum main beam length of thirteen (13) inches. The commission may regulate the taking of deer with antlers of four (4) points or less under this paragraph for the proper management of antlered deer. The commission may delay the opening date and change the length of bow and arrow season in subsection (1)(a) in this area.

(f) With guns and with dogs: December 24 through a date fixed by the commission that will provide a total of thirty-nine (39) days of hunting deer with guns and with dogs when added to the number of days provided for hunting deer with guns and with dogs in paragraph (b).

(2) The commission may set and regulate the deer seasons on wildlife management areas which it administers.

(3)(a) The commission may allow the harvesting of antlerless deer in the districts or zones upon the recommendation of the executive director based upon good and substantial quantitative data and research evaluations that demonstrate that the harvesting is necessary to properly manage the herd.

(b) The commission, only upon the recommendation of the executive director, may allow the harvesting of antlerless deer during the deer season with guns and with dogs by a majority vote of the commission.

(c) Nothing in this subsection prohibits the harvesting of either-sex deer by landowners or leaseholders on private lands under the deer management assistance program prescribed or approved by the executive director.

(4) The commission may provide a special permit for the harvesting of deer when they are depredating and destroying crops. The department shall supervise the harvesting and provide for the salvaging of the meat of the animals. The commission may authorize the department to assist any farmer in this state, who sustains crop damage by wildlife, in eradication of the problem wildlife.

[Effective from and after July 1, 2014, this section will read:]

(1) The open season on deer shall be as follows:

(a) With bow and arrow: October 1 through the Friday prior to Thanksgiving.

(b) With guns and with dogs: from the Saturday prior to Thanksgiving through December 1.

(c) With primitive weapons and without dogs: December 2 through December 15.

(d) With guns and without dogs: December 16 through December 23. However, the commission may allow hunting statewide or in specific areas

with any legal weapon which it may designate without dogs after the end of the last season for hunting deer with guns and with dogs, but the season with legal designated weapons and without dogs shall not extend beyond January 31.

(e) The commission shall establish an extended season with primitive weapons and bow and arrow without dogs from February 1 through February 15 for the area south of U.S. Highway 84 and east of Mississippi Highway 35 only for legal bucks. Any antlered deer taken in this area during any open season under this section must be a legal buck as defined in this paragraph. For purposes of this paragraph, the term "legal buck" means a deer with antlers of four (4) points or more with a minimum inside spread of ten (10) inches or a minimum main beam length of thirteen (13) inches. The commission may regulate the taking of deer with antlers of four (4) points or less under this paragraph for the proper management of antlered deer. The commission may delay the opening date and change the length of bow and arrow season in subsection (1)(a) in this area.

(f) With guns and with dogs: December 24 through a date fixed by the commission that will provide a total of thirty-nine (39) days of hunting deer with guns and with dogs when added to the number of days provided for hunting deer with guns and with dogs in paragraph (b).

(2) The commission may set and regulate the deer seasons on wildlife management areas which it administers.

(3)(a) The commission may allow the harvesting of antlerless deer in the districts or zones upon the recommendation of the executive director based upon good and substantial quantitative data and research evaluations that demonstrate that the harvesting is necessary to properly manage the herd.

(b) The commission, only upon the recommendation of the executive director, may allow the harvesting of antlerless deer during the deer season with guns and with dogs by a majority vote of the commission.

(c) Nothing in this subsection prohibits the harvesting of either-sex deer by landowners or leaseholders on private lands under the deer management assistance program prescribed or approved by the executive director.

(4) The commission may provide a special permit for the harvesting of deer when they are depredating and destroying crops. The department shall supervise the harvesting and provide for the salvaging of the meat of the animals. The commission may authorize the department to assist any farmer in this state, who sustains crop damage by wildlife, in eradication of the problem wildlife.

(5)(a) During any open season on deer with primitive weapons after November 30, a person may use any legal weapon of choice on private lands only, if the person is:

- (i) The title owner of the land;
- (ii) The lessee of the hunting rights on the land;
- (iii) A member of a hunting club leasing the hunting rights on the land; or

(iv) A guest of a person specified in subparagraph (i), (ii) or (iii).

(b) If the person is required to have a hunting license, the person must have a primitive weapon license, Sportsman's License or a Lifetime Sportsman's License.

SOURCES: Codes, 1942, § 5882; Laws, 1932, ch. 123; Laws, 1934, ch. 285; Laws, 1936, ch. 221; Laws, 1938, ch. 365; Laws, 1940, ch. 220; Laws, 1944, ch. 234, § 4; Laws, 1948, ch. 255, § 6; Laws, 1960, ch. 162; Laws, 1962, ch. 192; Laws, 1964, ch. 230; Laws, 1968, ch. 259, § 2; Laws, 1970, ch. 286, § 1; Laws, 1972, ch. 493, § 1; Laws, 1975, ch. 327, § 1; Laws, 1977, ch. 468, § 1; Laws, 1980, ch. 305; Laws, 1981, ch. 475, § 2; Laws, 1981, 1st Ex Sess, ch. 9; Laws, 1983, ch. 301, § 1, ch. 527; Laws, 1990, ch. 305, § 1; Laws, 1992, ch. 555, § 1; Laws, 1994, ch. 633, § 1; Laws, 1995, ch. 592, § 1; Laws, 1996, ch. 486, § 2; Laws, 1997, ch. 360, § 1; Laws, 1998, ch. 521, § 1; Laws, 1999, ch. 312, § 1; Laws, 2001, ch. 349, § 1; Laws, 2004, ch. 548, § 1; Laws, 2005, ch. 373, § 2; Laws, 2005, ch. 529, § 4; Laws, 2009, ch. 510, § 1; Laws, 2013, ch. 439, § 1, eff from and after July 1, 2014.

Amendment Notes — The 2013 amendment, effective July 1, 2014, added (5).

§ 49-7-31.1. Open season on deer; requirements for wearing hunter orange during any gun season; penalties.

Cross References — Certain persons authorized to hunt deer with bow during any open season on deer, turkey or small game must comply with this section, see § 49-7-38.

§ 49-7-38. Certain persons authorized to hunt with bow and arrow or crossbow during any open season on deer, turkey or small game.

(1) Any person who is exempt from having a hunting license and any person licensed to hunt deer with a bow or primitive weapon may hunt with a crossbow or bow and arrow during any open season on deer, turkey or small game.

(2) When hunting during any gun season on deer, the hunter must comply with Section 49-7-31.1.

SOURCES: Laws, 1985, ch. 340; Laws, 1994, ch. 398, § 1; Laws, 2000, ch. 343, § 1; Laws, 2004, ch. 532, § 1; Laws, 2005, ch. 525, § 1; Laws, 2008, ch. 468, § 1; Laws, 2013, ch. 343, § 1, eff from and after July 1, 2013.

Amendment Notes — The 2013 amendment rewrote the section, which read “(1) The commission may issue a special license to hunt deer, turkey and small game with a crossbow to any person sixty five (65) years of age or older or to any person having a disability which totally and permanently prevents the person from using a longbow or other conventional archery equipment as first certified by one (1) physician duly licensed to practice medicine in the state. The commission shall designate the fee for the license. The commission shall set the crossbow season for small game. A special licensee under this section may take deer or turkey with a crossbow during the respective seasons on deer and turkey. (2) The commission may issue a crossbow permit to hunt with a crossbow during the open seasons on deer with guns and primitive weapons. A person required to have a hunting license must have a license to take deer and turkey

in order to obtain a crossbow permit. The commission shall establish a fee for the permit.”

§ 49-7-53. Shipment and other transportation of game birds, animals or fish.

(1) It is unlawful for any railroad, express company or common carrier to knowingly receive for shipment or to ship any game animals, birds, or fish named in this chapter; except that a railroad, express company or common carrier may receive and carry game animals, birds or fish when accompanied by the hunter killing same and as provided otherwise in this chapter.

(2) No person or corporation may ship, transport or carry, cause to be shipped, transported or carried, or receive for shipment, transportation or carriage, or have in his possession with intent to ship, transport or carry, or secure the shipment, transportation or carriage beyond the limits of this state, any game animal, bird or fish, except for the following in accordance with rules and regulations promulgated by the commission:

(a) Rabbits;

(b) The furs or pelts of beaver, opossum, otter, raccoon or other fur-bearing animals during the open season and thirty (30) days thereafter;

(c) Skins and sinew of deer and products crafted, fashioned or made from deer bones or antlers not in velvet;

(d) Game fish produced in a legally permitted aquaculture facility pursuant to Section 79-22-9;

(e) Any part of a wild turkey, except the meat; and

(f) The meat, hide or any other body parts of nuisance animals.

(3) The offering or reception by any person or corporation within this state of any such birds, animals or fish for shipment from this state shall be prima facie evidence that such birds, animals or game fish were killed, captured or taken within the state. Each game animal, bird or fish in possession, received for shipment or transportation, or shipped or transported in violation of this section is a separate offense.

(4) A nonresident licensee during the open season may ship, transport or carry from this state any game animal, bird or fish lawfully taken but not in excess of the bag and possession limits prescribed in Section 49-7-41.

Such nonresident licensee shall accompany the shipment or shall attach to such animals, birds or fish, or any package containing them, an affidavit in a form to be prescribed by the executive director that such animals, birds or fish were lawfully killed or taken by him and are being shipped or transported to his home and are not for sale. A duplicate of such affidavit shall be filed with the transportation company or agent thereof, whose duty it shall be to transmit the same to the executive director within ten (10) days after its receipt. Such affidavit shall be sworn to within ten (10) days after its receipt, and shall be sworn to before a person authorized to administer oaths in the state. For such purpose, conservation officers and agents of the transportation companies are hereby authorized to administer such oaths.

(5) A violation of this section is a Class I violation and is punishable as provided in Section 49-7-141.

SOURCES: Codes, 1942, § 5886; Laws, 1932, ch. 123; Laws, 1936, ch. 197; Laws, 1942, ch. 250; Laws, 1974, ch. 569, § 20; Laws, 1983, ch. 323, § 2; Laws, 1985, ch. 452, § 4; Laws, 1990, ch. 336, § 1; Laws, 1995, ch. 339, § 2; Laws, 1997, ch. 370, § 2; Laws, 2002, ch. 427, § 2; Laws, 2007, ch. 479, § 2; Laws, 2013, ch. 514, § 2, eff from and after July 1, 2013.

Amendment Notes — The 2013 amendment substituted “thirty (30) days” for “ten (10) days” in (2)(b).

§ 49-7-65. Unlawful to hunt, when.

Except as provided in this chapter, it is unlawful for any person to hunt, trap, take, kill, wound or capture, or attempt to hunt, trap, take, kill, wound or capture any fur-bearing animals except during the open season prescribed by law or regulation. However, mink may be hunted with dogs during the season for taking of fur-bearing animals on payment of trapper’s license fee by person so hunting mink with dogs.

SOURCES: Codes, 1942, § 5888; Laws, 1932, ch. 123; Laws, 1954, ch. 176, § 1; Laws, 2005, ch. 489, § 2; Laws, 2013, ch. 514, § 3, eff from and after July 1, 2013.

Amendment Notes — The 2013 amendment deleted “or to have in his possession the green pelt of any such animal except during the open season and ten (10) days after the close of the open season” at the end of the first sentence.

BEAVER CONTROL PROGRAM

SEC.

- 49-7-201. Beaver and wild hog control program established; funding; county contributions; “participating landowner” defined.
- 49-7-203. Beaver and Wild Hog Control Advisory Board created; composition of board; compensation of members; duties, responsibilities and authority of board.

§ 49-7-201. Beaver and wild hog control program established; funding; county contributions; “participating landowner” defined.

(1) There is established a beaver and wild hog control program which shall be developed by the Beaver and Wild Hog Control Advisory Board created in Section 49-7-203 and administered by the Mississippi Department of Agriculture and Commerce with the advice of the board or administered by a federal agency or agencies under an agreement with the board for that purpose. The program shall be limited to the control or eradication of beavers and wild hogs only on private lands or public lands, excluding federally owned lands but including lands whereupon easements are granted to a federal

entity. The board may employ any personnel as is necessary to implement its duties to administer the program and set the salary of the personnel subject to State Personnel Board guidelines.

(2) Any state, local or private funds available to the board to fund the program shall be used to match federal funds available for such purpose. The board may execute any agreements with any agency of the federal government as are necessary to obtain federal matching funds to finance the beaver and wild hog control program. State funds may be expended for wild hog control only by a specific line-item appropriation by the Legislature for that purpose.

(3) Nonfederal funds to help finance the program may be obtained by the board from the following sources:

(a) Appropriations by the Legislature; state funds may be expended for wild hog control only by a specific line-item appropriation by the Legislature for that purpose.

(b) Contributions from participating counties;

(c) Charges on participating landowners; and/or

(d) Contributions from any other sources for such purpose.

(4)(a) Any county in the state desiring to participate in the program during its fiscal year shall contribute an amount established by the Beaver and Wild Hog Control Advisory Board for such purpose from any funds available in its general fund. The amount established by the advisory board shall be the minimum annual contribution required for a county to participate in the program. The minimum required contribution must be approved by three-fourths ($\frac{3}{4}$) of the advisory board members present and voting. In addition, a county may contribute an amount in excess of the minimum required contribution for administration of the beaver and wild hog control program in that county from any revenues available. The board shall establish the due date for the payment of contributions by counties.

(b) The sum of county contributions may be matched by nonfederal funds available to the state for the beaver and wild hog control program.

(5) Participating landowner means any person, corporation or association owning land in this state and taking part in the beaver and wild hog control program.

SOURCES: Laws, 1989, ch. 402, § 1; Laws, 2000, ch. 516, § 75; Laws, 2002, ch. 428, § 1; Laws, 2009, ch. 514, § 1; Laws, 2013, ch. 440, § 1, eff from and after July 1, 2013.

Amendment Notes — The 2013 amendment inserted “and wild hog” following “beaver” and “and wild hogs” following “beavers” throughout; added the last sentence in (2); added “state funds may be expended for wild hog control only by a specific line-item appropriation by the legislature for that purpose” at the end of (3)(a).

§ 49-7-203. Beaver and Wild Hog Control Advisory Board created; composition of board; compensation of members; duties, responsibilities and authority of board.

(1) There is created the Beaver and Wild Hog Control Advisory Board which shall be composed of the administrative heads of the Mississippi Department of Wildlife, Fisheries and Parks, State Forestry Commission, Department of Agriculture and Commerce, Mississippi Department of Transportation and Mississippi State Cooperative Extension Services, the Executive Director of the Mississippi Association of Supervisors, the Executive Vice President of Delta Council and the President of the Mississippi Farm Bureau Federation. In addition, the board shall include, as advisory, and nonvoting members:

(a) The Chairmen of the House and Senate Wildlife, Fisheries and Parks Committees;

(b) The Chairmen of the House and Senate Agriculture Committees; and

(c) One (1) at-large member of the House and Senate appointed by the Lieutenant Governor and Speaker of the House.

(2) The board shall elect a chairman from among its members, who shall preside over meetings.

(3) The members of the board shall serve without compensation but all members of the board shall be entitled to reimbursement for all actual and necessary expenses incurred in the discharge of their duties, including mileage as authorized by law.

(4) The board shall have the following duties and responsibilities:

(a) To adopt rules and regulations governing times and places for meetings and governing the manner of conducting its business;

(b) To develop a beaver and wild hog control program to be administered by the Mississippi Department of Agriculture and Commerce or by any agency or agencies under an agreement with the board for that purpose;

(c) To designate the areas of the state having the greatest need for beaver and wild hog control or eradication and establish a list of priority areas on an annual basis;

(d) To establish, assess and collect any fees charged to participating landowners; and

(e) To function in an advisory capacity to the Mississippi Department of Agriculture and Commerce or any agency or agencies administering the beaver and wild hog control program.

(5) The board shall have the authority to develop any programs and implement any regulations and policies. The board may develop what it deems necessary to address beaver and wild hog control within the state.

SOURCES: Laws, 1989, ch. 402, § 2; Laws, 2000, ch. 516, § 76; Laws, 2002, ch. 428, § 2; Laws, 2003, ch. 390, § 1; Laws, 2009, ch. 514, § 2; Laws, 2013, ch. 440, § 2, eff from and after July 1, 2013.

Amendment Notes — The 2013 amendment inserted “and Wild Hog” in the first sentence of (1); added (1)(b) and made related changes; and inserted “and wild hog” following “beavers” throughout.

WOUNDED WARRIOR SPECIAL PROGRAMS

SEC.
49-7-351. Wounded warrior special programs: establishment of special seasons within wildlife management areas and refuges for hunting, fishing and other recreational activities for eligible veterans and active duty service members.

§ 49-7-351. Wounded warrior special programs: establishment of special seasons within wildlife management areas and refuges for hunting, fishing and other recreational activities for eligible veterans and active duty service members.

(1) The purpose of this section is to honor wounded veterans and active duty service members by providing hunting, fishing and other recreational opportunities for them in state wildlife management areas and wildlife refuges.

(2) As used in this section, the term:

(a) “Active duty” means full-time duty in the Armed Forces, Reserves or National Guard during wartime service as defined by the United States Congress.

(b) “Armed Forces” means the United States Army, Navy, Marine Corps, Air Force and Coast Guard.

(c) “National Guard” means the Army National Guard and the Air Force National Guard of the United States.

(d) “Reserves” means the Army Reserve, Navy Reserve, Marine Corps Reserve, Air Force Reserve and Coast Guard Reserve.

(3) The Commission on Wildlife, Fisheries and Parks may designate an area or areas or establish special seasons within wildlife management areas and wildlife refuges for hunting, fishing and other recreational activities for eligible veterans and active duty service members to be known as “Wounded Warrior Special Programs.”

(4) The designated areas or special seasons shall be open to a person who:

(a) Is an active duty member of the Armed Forces, National Guard or Reserves and has a combat-related physical injury as determined by the member’s branch of service; or

(b) Is a veteran member of the Armed Forces, National Guard or Reserves who served on active duty during a period of war as defined by the United States Congress, and:

(i) Has a service-connected physical disability as determined by the United States Department of Veterans Affairs; or

(ii) Was discharged or released from military service because of a physical disability acquired or aggravated while serving on active duty during a period of war.

(5) The department may allow one (1) person to accompany an eligible veteran or active duty service member who requires assistance to hunt, fish or participate in the recreational activity.

(6) The commission may adopt any rules and regulations deemed necessary to administer this section.

SOURCES: Laws, 2013, ch. 463, § 1, eff from and after July 1, 2013.

CHAPTER 15

Seafood

Article 1.	General Provisions	49-15-1
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ARTICLE 1.

GENERAL PROVISIONS.

SEC.	
49-15-1.1.	Assent to Pittman-Robertson Wildlife Restoration Act and Dingell-Johnson Sport Fish Restoration Act.
49-15-15.	Powers and duties of commission.
49-15-17.	Seafood Fund; special accounts; sources of funds.
49-15-49.	Pass Christian Harbor oyster check station named the Colonel George J. Wright, Sr., building.

§ 49-15-1.1. Assent to Pittman-Robertson Wildlife Restoration Act and Dingell-Johnson Sport Fish Restoration Act.

The State of Mississippi hereby assents to the provisions of the Pittman-Robertson Wildlife Restoration Act [16 USCS Section 699 et seq.] and the Dingell-Johnson Sport Fish Restoration Act [16 USCS Section 777 et seq.]. The Commission on Marine Resources may perform any acts as may be necessary to ensure the conservation of fish and marine life. Revenue from saltwater license sales shall be controlled only by the Department of Marine Resources and used only when exercising responsibilities specific to the management of the state's fish and marine resources for which the department has authority under state law.

SOURCES: Laws, 2013, ch. 503, § 1, eff from and after passage (approved April 22, 2013.)

§ 49-15-15. Powers and duties of commission.

(1) In addition to any other powers and duties authorized by law, the commission shall have the following powers and duties regarding the regulation of seafood:

- (a) To exercise full jurisdiction and authority over all marine aquatic life and to regulate any matters pertaining to seafood, including cultivated seafood;

(b) To adopt, promulgate, amend or repeal, after due notice and public hearing, in accordance with the Mississippi Administrative Procedures Law and subject to the limitations in subsection (2) of this section, rules and regulations authorized under this chapter, including, but not limited to, rules and regulations necessary for the protection, conservation or propagation of all seafood in the waters under the territorial jurisdiction of the State of Mississippi and for the regulation of gill net and purse seine fishermen. All public hearings under this chapter concerning the regulation of marine resources shall be held in Hancock, Harrison or Jackson Counties. Each rule or regulation promulgated under this chapter shall immediately be advertised one (1) time in a newspaper or newspapers having general circulation in counties affected by that regulation. A regulation shall become effective at 6:00 a.m. on the day after its publication;

(c) To regulate all seafood sanitation and processing programs. In the three (3) coastal counties, the sanitation program regulating processing plants and seafood sold in retail stores operating in conjunction with a processing plant or seafood market that primarily deals with seafood is under the exclusive authority of the commission. The commission may also inspect and regulate those areas of any seafood processing plant which process freshwater species at any site where the department inspects seafood processing plants. To effectively and efficiently implement the state seafood sanitation program, the State Health Officer, the Commissioner of Agriculture and the executive director of the department may enter into a memorandum of understanding, which at a minimum, clearly specifies the responsibilities of each agency in implementing the seafood sanitation program, as well as the sharing of information and communication and coordination between the agencies;

(d) To set standards of measure;

(e) To set requirements for employment of commission employees whose compensation shall be governed by the rules and regulations of the State Personnel Board;

(f) To acquire and dispose of commission equipment and facilities;

(g) To keep proper records of the commission, including an official ordinance book which contains all rules and regulations promulgated by the commission under this chapter;

(h) To enter into advantageous interstate and intrastate agreements with proper officials, which directly or indirectly result in the protection, propagation and conservation of the seafood of the State of Mississippi, or continue any such agreements now in existence;

(i) To arrange, negotiate or contract for the use of available federal, state and local facilities which would aid in the propagation, protection and conservation of the seafood of the State of Mississippi;

(j) To authorize the operation of double rigs in the waters lying between the mainland coast and the island chain, and those rigs shall not exceed a length of twenty-five (25) feet at the corkline, and to prescribe the length at the lead line for each rig, net or try-trawl;

(k) To destroy or dispose of equipment or nets which have been lawfully seized by the commission and which are not sold under Section 49-15-201 et seq.;

(l) To open, close and regulate fishing seasons for the taking of shrimp, oysters, fish taken for commercial purposes and crabs and set size, catching and taking regulations for all types of seafood and culling regulations for oysters, except as otherwise specifically provided by law;

(m) To utilize the resources of the Gulf Coast Research Laboratory to the fullest extent possible;

(n) To develop a resource management plan to preserve seafood resources and to ensure a safe supply of these resources;

(o) To prescribe types and forms of scientific permits for public educational or scientific institutions, federal and state agencies and consultants performing marine resource studies;

(p) To suspend the issuance of licenses when necessary to impose a moratorium to conserve a fishery resource;

(q) To promote, construct, monitor and maintain artificial fishing reefs in the marine waters of the State of Mississippi and in adjacent federal waters; to accept grants and donations of money or materials from public and private sources for such reefs; to set permit fees and establish guidelines for the construction of artificial reefs in federal waters; and to apply for any federal permits necessary for the construction or maintenance of artificial fishing reefs in federal waters. The location data associated with artificial reefs by corporations and private individuals shall not be published by the commission or the department on the Web site or in written publications of the department. Location data of the artificial reefs may be requested in writing by any individual and shall be provided by the Department in a timely manner; and

(r) To require, in addition to other licensing requirements, the successful completion of educational or training programs on shellfish sanitation as a prerequisite to receiving commercial licenses authorized under this chapter in order to ensure compliance with the Interstate Shellfish Sanitation Conference's educational requirements for shellfish processors, dealers and harvesters by January 1, 2014.

(2) The commission shall not adopt rules, regulations or ordinances pertaining to marine resources which are more stringent than federal regulations. In any case where federal laws and regulations are silent on a matter pertaining to marine resources, the laws and regulations of the State of Mississippi shall control. The commission shall review all marine resource ordinances for compliance with the no more stringent standard and revise any ordinances more stringent than this standard no later than December 31, 1992. This subsection shall not apply to rules, regulations or ordinances pertaining to the wild stock of marine fin fish.

SOURCES: Codes, 1942, § 6047-06; Laws, 1960, ch. 173, § 6; Laws, 1962, ch. 193, § 9; Laws, 1974, ch. 572, § 4; Laws, 1975, ch. 321, § 1; Laws, 1978, ch. 497, § 1; Laws, 1980, ch. 380; Laws, 1981, ch. 537, § 1; Laws, 1982, ch. 446, § 2; Laws,

1985, ch. 512, § 2; Laws, 1987, ch. 521, § 1; Laws, 1988, ch. 395, § 1; Laws, 1989, ch. 562, § 1; Laws, 1991, ch. 564, § 1; Laws, 1992, ch. 355, § 1; Laws, 1992, ch. 544, § 1; Laws, 1993, ch. 521, § 1; Laws, 1994, ch. 578, § 50; Laws, 1995, ch. 611, § 1; Laws, 1996, ch. 499, § 1; Laws, 1997, ch. 353, § 1; Laws, 1997, ch. 579, § 18; Laws, 1999, ch. 558, § 1; Laws, 2000, ch. 557, § 1; Laws, 2009, ch. 495, § 1; Laws, 2013, ch. 450, § 1, eff from and after passage (approved Mar. 25, 2013.)

Amendment Notes — The 2013 amendment in (1)(q), substituted “the Department in a timely manner; and” for “the Department of Marine Resources in a timely manner” at the end; added (1)(r); and made minor stylistic changes.

§ 49-15-17. Seafood Fund; special accounts; sources of funds.

(1)(a) All monies received or obtained by the commission under the provisions of this chapter shall be paid over by the commission to the State Treasurer and shall be deposited into the fund known as the “Seafood Fund.” All revenues collected through the department, to include, but not limited to, commercial saltwater licenses and taxes, permits, fines and penalties, and confiscated catches, shall be deposited into the department operating account (Seafood Fund) and expended for the operation of the department, as authorized by the Legislature.

(b) There is established a special account to be known as the “Artificial Reef Program Account” within the Seafood Fund. Any funds received from any public or private source for the purpose of promoting, constructing, monitoring or maintaining artificial reefs in the marine waters of the state or in federal waters adjacent to the marine waters of the state shall be credited to the account. Any unexpended funds remaining in the account at the end of the fiscal year shall not lapse into the Seafood Fund, but shall remain in the account. The department may expend any funds in the account, subject to appropriation by the Legislature, to accomplish the purpose of the account.

(c) There is established a special account to be known as the “Coastal Preserve Account” within the Seafood Fund. Any funds received from any public or private source for the purpose of management, improvement and acquisition of coastal preserves in the state and money required to be deposited pursuant to Sections 27-19-56.10 and 27-19-56.27, shall be credited to the account. Any unexpended funds remaining in the account at the end of the fiscal year shall not lapse into the Seafood Fund, but shall remain in the account. The department may expend any funds in the account, subject to appropriation by the Legislature, for the management, improvement and acquisition of coastal preserves.

(d) There is established a special account to be known as the “Mississippi Seafood Marketing Program Account” within the Seafood Fund. Monies required to be deposited into the account under Section 27-19-56.27 and any funds received from any public or private source for the purpose of promoting the Mississippi seafood industry must be credited to the account. Any unexpended funds remaining in the account at the end of the fiscal year do

not lapse into the Seafood Fund, but remain in the account. The department may expend any funds in the account, subject to appropriation by the Legislature, to accomplish the purposes of this account including, but not limited to, providing funds for cobia stock enhancement programs.

(2) The fund shall be treated as a special trust fund and interest earned on the principal shall be credited to the fund.

(3) The secretary of the commission shall keep accurate reports of monies handled as a part of the permanent records of the commission, and the State Treasurer shall furnish the secretary of the commission such forms as may be needed, and the secretary shall account for such forms in his reports to the Treasurer.

SOURCES: Laws, 1994, ch. 578, § 14; Laws, 1999, ch. 558, § 3; Laws, 2000, ch. 536, § 18; Laws, 2003, ch. 529, § 20; Laws, 2005, ch. 532, § 3; Laws, 2011, ch. 523, § 46; brought forward and amended, Laws, 2013, ch. 560, § 44, eff from and after July 1, 2013.

Amendment Notes — The 2013 amendment added “including, but not limited to, providing funds for cobia stock enhancement programs” at the end of (1)(d).

§ 49-15-49. Pass Christian Harbor oyster check station named the Colonel George J. Wright, Sr., building.

The Mississippi Department of Marine Resources’ oyster check station located at the Pass Christian Harbor, Pass Christian, Mississippi, shall be named the Colonel George J. Wright, Sr., building. The Department of Finance and Administration shall prepare or have prepared a distinctive plaque to be placed in a prominent place within the Colonel George J. Wright, Sr., building, which states the background, accomplishments and public health service to the state and nation of Colonel George J. Wright, Sr.

SOURCES: Laws, 2013, ch. 437, § 1, eff from and after passage (approved Mar. 25, 2013.)

Editor’s Note — A former § 49-15-49 [Codes, 1942, § 6048-03; Laws, 1962, ch. 193, § 3; repealed by Laws of 1974, ch. 572, § 10, effective from and after passage (approved April 23, 1974)] pertained to contracts for removal of shells.

CHAPTER 17

Pollution of Waters, Streams, and Air

Water Pollution Control Revolving Fund	49-17-81
Lead-Based Paint Activity Accreditation and Certification Act	49-17-501

WATER POLLUTION CONTROL REVOLVING FUND

SEC.	
49-17-85.	Funds established; promulgation of regulations; uses of fund; administrative fees; renegotiation of certain loans.

§ 49-17-85. Funds established; promulgation of regulations; uses of fund; administrative fees; renegotiation of certain loans.

(1) There is established in the State Treasury a fund to be known as the "Water Pollution Control Revolving Fund" which shall be administered by the commission acting through the department. The revolving fund may receive bond proceeds and funds appropriated or otherwise made available by the Legislature in any manner and funds from any other source, public or private. The revolving fund shall be maintained in perpetuity for the purposes established in this section.

(2) There is established in the State Treasury a fund to be known as the "Water Pollution Control Hardship Grants Fund," which shall be administered by the commission acting through the department. The grants fund shall be maintained in perpetuity for the purposes established in this section. Any interest earned on monies in the grants fund shall be credited to that fund.

(3) The commission shall promulgate regulations for the administration of the revolving fund program, the hardship grants program and for related programs authorized under this section. The regulations shall be in accordance with the federal Water Quality Act of 1987, as amended, and regulations and guidance issued under that act. The commission may enter into capitalization grant agreements with the United States Environmental Protection Agency and may accept capitalization grant awards made under Title VI of the Water Quality Act of 1987, as amended.

(4) The commission shall establish a loan program which shall commence after October 1, 1988, to assist political subdivisions in the construction of water pollution control projects. Loans from the revolving fund may be made to political subdivisions as set forth in a loan agreement in amounts not exceeding one hundred percent (100%) of eligible project costs as established by the commission. Notwithstanding loan amount limitations set forth in Section 49-17-61, the commission may require local participation or funding from other sources, or otherwise limit the percentage of costs covered by loans from the revolving fund. The commission may establish a maximum amount for any loan in order to provide for broad and equitable participation in the program.

(5) The commission shall establish a hardship grants program for rural communities, which shall commence after July 1, 1997, to assist severely economically disadvantaged small rural political subdivisions in the construction of water pollution control projects. The commission may receive and administer state or federal funds, or both, appropriated for the operation of this grants program and may take all actions necessary to implement the program in accordance with the federal hardship grants program. The hardship grants program shall operate in conjunction with the revolving loan program administered under this section.

(6) The commission shall act for the state in all matters and with respect to all determinations under Title VI of the federal Water Quality Act of 1987, as amended, and the federal Omnibus Appropriations and Recision Act of 1996.

(7) Except as otherwise provided in this section, the revolving fund may be used only:

(a) To make loans on the condition that:

(i) The loans are made at or below market interest rates, at terms not to exceed the maximum time allowed by federal law after project completion; the interest rate and term may vary from time to time and from loan to loan at the discretion of the commission;

(ii) Periodic principal and interest payments will commence when required by the commission but not later than one (1) year after project completion and all loans will be fully amortized when required by the commission but not later than the maximum time allowed by federal law after project completion;

(iii) The recipient of a loan will establish a dedicated source of revenue for repayment of loans;

(b) To buy or refinance the debt obligation of political subdivisions at or below market rates, where the debt obligations were incurred after March 7, 1985, and where the projects were constructed in compliance with applicable federal and state regulations;

(c) To guarantee, or purchase insurance for, obligations of political subdivisions where the action would improve credit market access or reduce interest rates;

(d) To provide loan guarantees for similar revolving funds established by municipalities or intermunicipal agencies;

(e) To earn interest on fund accounts;

(f) To establish nonpoint source pollution control management programs;

(g) To establish estuary conservation and management programs;

(h) For the reasonable costs of administering the revolving fund and conducting activities under this act, subject to the limitations established in Section 603(d)(7) of Title VI of the federal Clean Water Act, as amended, and subject to annual appropriation by the Legislature;

(i) In connection with the issuance, sale and purchase of bonds under Section 31-25-1 et seq., related to the funding of projects, to provide security or a pledge of revenues for the repayment of the bonds; and

(j) To pay the principal and interest on bonds issued pursuant to Section 11 of Chapter 580, Laws of 2007, Section 1 of Chapter 492, Laws of 2008, Section 47 of Chapter 557, Laws of 2009, Section 45 of Chapter 533, Laws of 2010, Section 3 of Chapter 480, Laws of 2011, and Section 36 of Chapter 569, Laws of 2013, as they become due; however, only interest and investment earnings on money in the fund may be utilized for this purpose.

(8) The hardship grants program shall be used only to provide hardship grants consistent with the federal hardship grants program for rural communities, regulations and guidance issued by the United States Environmental Protection Agency, subsections (3) and (5) of this section and regulations promulgated and guidance issued by the commission under this section.

(9) The commission shall establish by regulation a system of priorities and a priority list of projects eligible for funding with loans from the revolving fund.

(10) The commission may provide a loan from the revolving fund only with respect to a project if that project is on the priority list established by the commission.

(11) The revolving fund shall be credited with all payments of principal and interest derived from the fund uses described in subsection (7) of this section. However, notwithstanding any other provision of law to the contrary, all or any portion of payments of principal and interest derived from the fund uses described in subsection (7) of this section may be designated or pledged for repayment of a loan as provided for in Section 31-25-28 in connection with a loan from the Mississippi Development Bank.

(12) The commission may establish and collect fees to defray the reasonable costs of administering the revolving fund if it determines that the administrative costs will exceed the limitations established in Section 603(d)(7) of Title VI of the federal Clean Water Act, as amended. The administration fees may be included in loan amounts to political subdivisions for the purpose of facilitating payment to the commission. The fees may not exceed five percent (5%) of the loan amount.

(13) The commission may, on a case-by-case basis and to the extent allowed by federal law, renegotiate the payment of principal and interest on loans made under this section to the six (6) most southern counties of the state covered by the Presidential Declaration of Major Disaster for the State of Mississippi (FEMA-1604-DR) dated August 29, 2005, and to political subdivisions located in such counties; however, the interest on the loans shall not be forgiven for a period of more than twenty-four (24) months and the maturity of the loans shall not be extended for a period of more than forty-eight (48) months.

SOURCES: Laws, 1988, ch. 534, § 3; Laws, 1991, ch. 535, § 1; Laws, 1991, ch. 578, § 6; Laws, 1997, ch. 416, § 1; Laws, 2002, ch. 490, § 17; Laws, 2004, ch. 570, § 3; Laws, 2006, ch. 545, § 4; Laws, 2007, ch. 580, § 12; Laws, 2008, ch. 492, § 2; Laws, 2009, ch. 557, § 48; Laws, 2010, ch. 533, § 46; Laws, 2011, ch. 480, § 4; Laws, 2013, ch. 569, § 37, eff from and after passage (approved Apr. 25, 2013.)

Amendment Notes — The 2013 amendment substituted “this act” for “Sections 49-17-81 through 49-17-89” preceding “subject to the limitations established” in (7)(h); inserted “and Section 36 of Chapter 569, Laws of 2013” and made related changes in (7)(j).

LEAD-BASED PAINT ACTIVITY ACCREDITATION AND CERTIFICATION ACT

SEC.
49-17-509. Authority of commission; applicability of Sections 49-17-501 through 49-17-531.

§ 49-17-509. Authority of commission; applicability of Sections 49-17-501 through 49-17-531.

(1) The commission shall adopt regulations for accreditation of lead-based paint activity training programs. Accredited training programs shall ensure the availability of, and provide adequate facilities for, the delivery of lectures, course tests, hands-on training and assessment activities. This includes providing training equipment that reflects current work practices and maintaining or updating the equipment and facilities as needed. The training program shall offer courses which teach work practice standards for conducting lead-based paint activities as adopted by the United States Environmental Protection Agency or the commission under Sections 49-17-501 through 49-17-531. These standards shall be taught in the appropriate courses to provide trainees with the knowledge needed to perform the lead-based paint activities they are responsible for. The commission also may adopt accreditation requirements for training programs providing refresher training programs.

(2) The commission shall adopt regulations establishing work practice standards for performing lead-based paint activities in target housing and child-occupied facilities. These standards may include appropriate documented methodologies, clearance levels and requirements for lead hazard screens, risk assessments, abatement activities, renovation activities, sample collection and analysis and record keeping. Beginning on August 31, 1998, all lead-based paint activities shall be performed in accordance with work practice standards adopted under Sections 49-17-501 through 49-17-531. The commission shall implement a compliance monitoring program to ensure compliance with the work practice standards.

(3) The commission shall adopt regulations for certification of lead-based paint risk assessors, project designers, renovators, dust sampling technicians, supervisors, inspectors and workers.

(4) Applicants for the issuance or reissuance of certificates required under Sections 49-17-511 through 49-17-519 shall submit to the commission, on forms prepared by the commission, an application. In addition, the applicant shall submit documentation deemed appropriate by the commission providing the educational background and demonstrating satisfactory completion of the applicable training programs and shall pay the applicable fee.

(5) The commission shall require certificates issued under Sections 49-17-511 through 49-17-521 to be reissued annually.

(6) Except as otherwise required by Sections 49-17-501 through 49-17-531, regulations adopted under Sections 49-17-501 through 49-17-531 shall be no more stringent than federal regulations for lead-based paint activities.

(7) Sections 49-17-501 through 49-17-531 do not apply to a person who is performing lead-based paint activities or abatement of lead-based paint hazards or renovation in a residential dwelling owned by that person, unless the residential dwelling is occupied by a person or persons other than the owner or owner's immediate family while these activities are being performed,

or a child residing in the building has been identified as having an elevated blood lead level.

SOURCES: Laws, 1997, ch. 390, § 5; Laws, 2000, ch. 500, § 1; Laws, 2009, ch. 427, § 4; Laws, 2013, ch. 338, § 1, eff from and after passage (approved Mar. 14, 2013.)

Amendment Notes — The 2013 amendment deleted former (8) which read: “Sections 49-17-501 through 49-17-531 do not apply to renovations in target housing for which the firm performing the renovation has obtained a statement signed by the owner that the renovation will occur in the owner’s residence, no child under age six (6) resides there, no pregnant woman resides there, the housing is not a child-occupied facility, and the owner acknowledges that the renovation firm will not be required to use the work practices contained in Sections 49-17-501 through 49-17-531.”

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